



Board for Licensing Contractors

500 James Robertson Parkway, Nashville, TN 37243-1150

Telephone: 800-544-7693 or (615) 741-8307

Website: <http://tn.gov/commerce/boards/contractors/> Email: Contractors.Home-Improvement@TN.Gov

Workers' Compensation (WC) Summary

(Applying to the Licensees of the Board for Licensing Contractors)

Law Requiring Proof of Insurance for Contractors and Home Improvement Contractors

T.C.A. § 62-6-111(a)(1), "Any application for initial licensure or for renewal of licensure also shall be accompanied by an affidavit affirming that the applicant maintains general liability insurance and workers' compensation insurance and specifying the amount of such insurance as well as any other information the board may require."

Law Change

T.C.A. § 50-6-113 (Chapter 1041 of the Public Acts of 2008) clarifies that unless you are a sole proprietor or partner (with no employees) getting paid directly by the property owner, an employer in the contracting group designated by the National Council of Compensation Insurance (NCCI) must have workers' compensation insurance on all of their workers and themselves. This Act becomes effective December 31, 2009 and is as follows:

SECTION 1. Tennessee Code Annotated, Section 50-6-113, is amended by deleting subdivision (f)(1) and replacing it with the following language:

(A) Any person engaged in the construction industry, including principal contractors, intermediate contractors and subcontractors shall be required to carry workers' compensation insurance.

(B) Notwithstanding subdivision (A) above, a sole proprietor or partner engaged in the construction industry shall not be required to carry workers' compensation on themselves if they are doing work directly for the owner of the property pursuant to subdivision (f)(1)(C), but shall be required to carry workers' compensation insurance on any subcontractor, employee or worker not otherwise covered by a policy of workers' compensation; however, if a sole proprietor or partner is working as an intermediate contractor or subcontractor contractor then workers' compensation insurance shall be required on themselves.

(C) The provisions of this subsection shall not apply to any person building a dwelling or other structure, or performing maintenance, repairs, or making additions to structures, on the person's own property for the person's own use and for which the person receives no compensation.

SECTION 2. Tennessee Code Annotated, Section 50-6-113, is amended by deleting subdivision (f)(3) and replacing it with the following language:

For purposes of this subsection (f), "a person engaged in the construction industry" means any person or entity assigned to the Contracting Group as those classifications are designated by the rate service organization designated by the Commissioner of Commerce and Insurance as provided in Section 56-5-320.

SECTION 3. Tennessee Code Annotated, Section 50-6-113, is hereby amended by adding the following new subsection immediately preceding the last section and by renumbering the subsequent sections accordingly:

Public Chapter No. 1041 PUBLIC ACTS, 2008

(g) If anything in this act shall be deemed unconstitutional, the unconstitutional section shall be severed from the rest of the statute without affecting the constitutionality of the act as a whole.

SECTION 4. Tennessee Code Annotated, Section 50-6-113 (f)(4), is hereby deleted.

SECTION 5. This act shall take effect on December 31, 2009, the public welfare requiring it.

PASSED: May 13, 2008

Note: The Legislature begins session in January, 2010 and you may check on amendments of all laws website at: <http://www.legislature.state.tn.us/> or check at the Board's website for updates at the "Law, Rules and Regulations" at: <http://tn.gov/commerce/boards/contractors/>

FAQ's – Frequently Asked Questions for WC for Corporations

- Q. If the President of the corporation has a business and the entity they own is licensed as a contractor, such as "Jones Corporation, Inc." If John Jones, the president and owner of the corporation, who does not have any employees, files an I-6 form can the licensee, a corporation, be exempt from obtaining coverage?
- A. The answer is "NO" to being exempt from having to carry workers' compensation insurance. The corporate officer(s) can file the I-6 and be excluded from the policy but not from having to carry workers' compensation. Per the law corporate officers who reject (file form I-6) the coverage, are still included in the number of employees for the purposes of determining the requirement of coverage under such law T.C.A. 50-6-103(b). Note: A corporation that is "NOT" in the "construction industry" would still be exempt until the 5th employee is hired; officers are always included in the count. In this example, he still is required to pay for a minimum policy (\$750) since there is only a corporate officer in the corporation and no employees. If the corporation has any employees, the employees' payroll will be added and so would additional premiums.
- Q. What exclusions are there to the workers compensation insurance?
- A. The only exclusion is for sole proprietors, partners and members of LLC's who only perform work directly for the owner of the property (homeowners). They would be exempt from having to carry workers' compensation, but if they (any of the aforementioned) have any employees, subcontractors or contract work out, they would be required to carry workers' compensation insurance and cover themselves under their own policy.

Questionnaire for License Application and Renewal

The following questionnaire has been included in the license application and renewal to assist licensee applicants to determine whether they are exempt from submitting proof of coverage:

Workers Compensation Insurance Coverage Determination Questionnaire

I. If you check ALL of the following, you are considered **EXEMPT** from submitting proof of insurance (see PC 1041):

- ☐ - No Employees (Includes Qualifying Agents)
- ☐ - Sole Proprietor, Partnership or Limited Liability Company (LLC)
- ☐ - Contracts directly with the owner; acts as a prime (general) contractor; never acts as a subcontractor.

II. If you check ONE of the following, you are **NOT EXEMPT** and must submit proof of insurance:

- ☐ - One or More Employees
- ☐ - Acts as a Subcontractor - Contract's with the prime (*general*) contractor.
- ☐ - Corporation (Note: Officers must always carry workers' compensation insurance on the corporation. Corporate officers may file the I-6 Form with the Department of Labor and Workforce, to be excluded from the policy; but not from having to carry workers' compensation insurance. Per the law, corporate officers who reject the coverage, does not exempt the corporation; the corporation is still included in T.C.A. 50-6-103(b). Example, the President makes the first employee.)

Requirements for Proof of Insurance Format Submitted to the Board

The Board requests a certificate of insurance (available from your insurance agency) which lists a policy number (not binder or account number); a beginning and expiration date; and limits of the insurance (for general liability). The name on the license must match the name in the "insured box". The Board should be listed as the certificate holder.

- "Producer" section must include the name of the insurance agency, and telephone number;
- "Insured" section should list the contractor's name as licensed;
- "Certificate of Insurance" should list the name of the insurance company;
- To Be Determined" or "TBD" is not acceptable;

- Policy effective and expiration date listed;
- "Description of Operations" portion must list: "State of Tennessee Contractors License";
- "Certificate Holder" section should list the "Board for Licensing Contractors" with address; and
- "Cancellation Notice" section must be completed with at least **10 days** notice to be given.

PC 1041 - Information from Department of Labor and Workforce Development, Division of Workers' Compensation Division

The new law, Public Chapter 1041 (2008), requires everyone in the construction industry to have workers' compensation coverage. The new law becomes effective December 31, 2009.

- Owners are required to carry workers compensation on all subcontractors, workers, and employees who work for them and on themselves.
- Exception--a sole proprietor or partner (with no subcontractors, workers, or employees) being paid directly by a residential property owner.

Workers' Compensation Division website is at: <http://www.state.tn.us/labor-wfd/wcomp.html>

Premium Questions

Premium questions involving workers' compensation insurance should be directed to the Department of Commerce and Insurance. Their website may be found at

www.tn.gov/commerce/insurance/ or
<http://tn.gov/commerce/insurance/workcompcompanyRes.shtml>

Workers Compensation Verification Services (LWFD)

To check and verify workers compensation, you may go to: <https://www.ewccv.com/cvs/>

Adopted Rules

Rules from the publications section of the Tennessee Secretary of State of Tennessee are at:
<http://www.tennessee.gov/sos/rules/0800/0800-02/0800-02.htm>

NCCI Contracting Industry Group Classification Codes

The NCCI classification codes may be obtained at:
http://tn.gov/commerce/insurance/documents/NCCI_ContractingIndustryGroupCodes120408.pdf

For more information relative to submitting proof of insurance to fulfill licensing requirements with the Board for Licensing Contractors, please go to our website's "Insurance Information" link at:
http://tn.gov/commerce/boards/contractors/documents/InsuranceInfo_001.pdf